



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2013-0137]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 6, 2013, the Association of American Railroad (AAR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 213.103, Ballast: general. FRA assigned the petition Docket Number FRA-2013-0137.

AAR, on behalf of itself and its member railroads, requests to study and redefine when ballast material fails under load. AAR proposes to conduct and observe specific performance-based conditions and remedial action procedures existing in isolation under train operations for a 1-year test period. The proposal identifies five specific subdivisions on the BNSF Railway that will serve as test locations exempt from the current safety standard. AAR's petition states that the Federal safety regulations are vague and do not clearly define when ballast material fails to support the track structure according to the current description and application of the Federal regulation. When ballast material fails, "the condition must be brought into compliance or track speed reduced by one class of track below the class of track the track geometry complies with, except Class 1 track may remain at Class 1 speeds." AAR proposes that "for purposes of

this waiver, non-compliant ballast exists where the track drainage in mainline track is impeded for 15½ feet or more without a joint present or 10 feet or more with a joint present, such that the ability of the track structure to maintain track geometry is impaired by a muddy pumping action occurring because of fines and other material originating from the track structure or train operations and water is present.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation’s (DOT) Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington,

D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,
Associate Administrator for Railroad Safety,
Chief Safety Officer.